

REMARKS

Claims 1, 8, 15, 21 and 22 have been amended. The application contains claims 1-22. Marked-up versions of amended claims 1, 8, 15, 21 and 22 are attached hereto as APPENDIX A. The claims have been amended without prejudice or disclaimer to the subject matter recited therein and solely for the purposes of furthering the prosecution of the application. Applicant reserves the right to pursue the original claims and other claims in this application and in other applications.

Claims 21 and 22 stand rejected under 35 U.S.C. § 112, first paragraph. The Office action states that there is no description set forth to allow for horizontal and vertical movement between the inner and outer caps. The rejection is respectfully traversed. Claims 21 and 22 have been amended to clarify that the horizontal direction is a horizontal rotational direction as described in the specification at page 7, line 19 to page 8, line 5. The amendments address the concern raised in the Office action. Claims 21 and 22 are believed to be allowable in light of these amendments. The rejection should be withdrawn and the claims allowed.

Claims 1-22 stand rejected under 35 U.S.C. § 112, second paragraph. The Office action states that it is unclear how the recesses are both “radially disposed” and “formed at an intersection” of the top wall and the cylindrical skirt. The rejection is respectfully traversed. Claims 1, 8, 15 and 22 have been amended to address the concern raised in the Office action.

Claims 1-22 are believed to be allowable in light of these amendments. The rejection should be withdrawn and the claims allowed.

Claims 1-3, 6, 8-13, 15 and 16 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Ostrowsky. The rejection is respectfully traversed.

Claim 1 recites a safety closure comprising an outer cap and an inner cap. An inner surface of the outer cap's first top wall has "a plurality of lugs radially disposed thereon." The inner cap includes a "plurality of recesses" radially disposed thereon. The claimed recesses comprise "an inclined wall that is inclined with respect to a horizontal wall of said recess." The claimed recesses and lugs are also "shaped such that said lugs are not engaged by said recesses when said outer cap is turned in a closure opening direction unless a force urging said outer cap towards said inner cap is being applied to said outer cap." According to claim 1, "when the force is applied to said outer cap and said outer cap is simultaneously turned in the closure opening direction said lugs are engaged by said inclined walls of said recesses allowing said inner cap to be rotated and removed from the container" (emphasis added).

Applicant respectfully submits that the closure disclosed by Ostrowsky does not have the recited lugs and recesses and thus, Ostrowsky does not disclose lugs that are engaged by inclined walls when a force is applied to the outer cap while the cap is being turned in the closure opening direction. Thus, the Ostrowsky closure does not teach, suggest or disclose an element of claim 1. Accordingly, claim 1 is allowable over Ostrowsky.

Applicant has previously supplied arguments as to the differences between Ostrowsky and the claimed inventions (see Jan. 14, 2002 Amendment pp. 7-9). These differences cause the Ostrowsky closure to have extra components (e.g., socket 28 and stud 30) that are not required by the claimed invention; cause the closure to have specific flexibility requirements in order to operate correctly (i.e., “two-way spring action”) that are not required by the claimed invention; and cause the closure to operate in a different manner than the claimed invention.

For at least the foregoing reasons, claim 1 is allowable over Ostrowsky. Claims 2-3 and 6 depend from claim 1 and are allowable along with claim 1. Claims 8-13, 15 and 16 recite similar limitations as claims 1-3 and 6 and are allowable for at least the reasons set forth above and on their own merits. Accordingly, the rejection should be withdrawn and claims 1-3, 6, 8-13, 15 and 16 allowed.

Claims 1-6, 8-13, 15-19, 21 and 22 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Maki. The rejection is respectfully traversed.

As set forth above, claim 1 recites recesses having an inclined wall. According to claim 1, the inclined wall is inclined with respect to a horizontal wall of the recess. Maki, by contrast, uses teeth 24 comprised of two vertical walls (see FIG. 1). The vertical walls of the teeth 24 are used to engage knurls 34 during closure removal and application. The Office action states that the Maki “recesses” contain an inclined wall which is inclined with respect to

a “vertical axis extending longitudinally of the safety closure” (Office action p. 3). Applicant respectfully traverses this argument because the claimed recess requires a wall that is “that is inclined with respect to a horizontal wall of said recess.” Thus, Maki does not have the recited inclined wall.

Without the claimed inclined walls, Maki cannot and does not disclose engaging an inclined wall during closure removal as recited in claim 1. In addition, without the recited shape of the recess, Maki suffers from the same disadvantages as the Ostrowsky closure (set forth above). Thus, applicant respectfully submits that claims 1-6, 8-13, 15-19, 21 and 22 are allowable over Maki. The rejection should be withdrawn and claims 1-6, 8-13, 15-19, 21 and 22 allowed.

Maki is also different from the claimed invention because the Maki closure requires a series of flexible filaments 36 to keep the overcap 26 separated from the lower cap 16 (see Amendments dated January 14, 2002 pp. 9-10 and June 21, 2001 pp. 7-8).

Claims 4, 5 and 17-19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ostrowsky. The rejection is respectfully traversed.

Claims 4 and 5 depend from claim 1 and claims 17-19 depend from claim 15. As noted above, Ostrowsky fails to teach or suggest key features of claims 1 and 15. As such, Claims 1 and 15 are allowable over Ostrowsky and dependent claims 4, 5 and 17-19 are

allowable along with claims 1 and 15. Accordingly, the rejection should be withdrawn and the claims allowed.

Claims 7 and 14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ostrowsky in view of Friedenthal. The rejection is respectfully traversed.

Claim 7 depends from claim 1 and claim 14 depends from claim 8. As noted above, Ostrowsky does not teach or suggest all of the elements of claims 1 and 8. Applicant respectfully submits that Friedenthal fails to do so as well. Friedenthal has been cited merely for disclosing a beveled edge. Friedenthal does not have the recited lugs and recesses (See FIG. 2). Thus, the combination of Ostrowsky and Friedenthal fails to teach or suggest all of the elements of claims 1 and 8 and dependent claims 7 and 14. Accordingly the rejection should be withdrawn and the claims allowed.

Claim 20 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Ostrowsky in view of Buono. The rejection is respectfully traversed.

Claim 20 depends from claim 15. As noted above, Ostrowsky does not teach or suggest all of the elements of claims 15. Applicant respectfully submits that Buono fails to do so as well. Buono has been cited merely for disclosing indicia on its top cap. Buono does not have the recited lugs and recesses (see FIG. 1). Thus, the combination of Ostrowsky and Buono fails to teach or suggest all of the elements of claims 15 and dependent claim 20. Accordingly the rejection should be withdrawn and claim 20 allowed.

Claims 7 and 14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Maki in view of Friedenthal. The rejection is respectfully traversed.

Claim 7 depends from claim 1 and claim 14 depends from claim 8. As noted above, Maki does not teach or suggest all of the elements of claims 1 and 8. Applicant respectfully submits that Friedenthal fails to do so as well. Friedenthal has been cited merely for disclosing a beveled edge. As noted above, Friedenthal does not have the recited lugs and recesses. As such, the combination of Maki and Friedenthal fails to teach or suggest all of the elements of claims 1 and 8 and dependent claims 7 and 14. Accordingly the rejection should be withdrawn and claims 7 and 14 allowed.

Claim 20 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Maki in view of Buono. The rejection is respectfully traversed.

Claim 20 depends from claim 15. As noted above, Maki does not teach or disclose all of the elements of claims 15. Applicant respectfully submits that Buono fails to do so as well. Buono has been cited merely for disclosing indicia on its top cap. However, since Buono does not have the recited lugs and recesses, the cited combination fails to teach or suggest all of the elements of claims 15 and dependent claim 20. Accordingly the rejection should be withdrawn and claim 20 allowed.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully

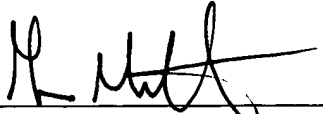
Serial No.: 09/627,155

Docket No.: P7240.0001/P076

requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

Dated: June 26, 2002

Respectfully submitted,

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APPENDIX A

Version With Markings to Show Changes Made

1. (Three times amended) A safety closure comprising:

an outer cap, comprising a first top wall and a first cylindrical skirt depending from said first top wall, an inner surface of said first top wall having a plurality of lugs radially disposed thereon; and

an inner cap being rotatably received by the outer cap, said inner cap comprising a second top wall and a second cylindrical skirt depending from said second top wall, a plurality of recesses are radially disposed about said second top wall and formed at an intersection of said second top wall and said second cylindrical skirt, each of said recesses comprise an inclined wall that is inclined with respect to a horizontal wall of said recess,

said recesses and lugs being shaped such that said lugs are engaged by at least some of said recesses when said outer cap is turned in a closure application direction causing said closure to be applied to a container, said recesses and lugs being further shaped such that said lugs are not engaged by said recesses when said outer cap is turned in a closure opening direction unless a force urging said outer cap towards said inner cap is being applied to said outer cap, and when the force is applied to said outer cap and said outer cap is simultaneously turned in the closure opening direction said lugs are engaged by said inclined walls of said recesses allowing said inner cap to be rotated and removed from the container.

8. (Three times amended) A child resistant safety closure comprising:

an outer cap, comprising a first top wall and a first cylindrical skirt depending from said first top wall, a plurality of lugs are radially disposed about said first top wall and formed at an intersection of said first top wall and said first cylindrical skirt; and

an inner cap being rotatably received by the outer cap, said inner cap comprising a second top wall and a second cylindrical skirt depending from said second top wall, a plurality of recesses are formed on an outer surface of said second top wall, each of said recesses comprise an inclined wall that is inclined with respect to a horizontal wall of said recess,

said recesses and lugs being shaped such that said lugs are engaged by at least some of said recesses when said outer cap is turned in a closure application direction, said recesses and lugs being further shaped such that said lugs are not engaged by said recesses when said outer cap is turned in a closure opening direction unless a force urging said outer cap towards said inner cap is simultaneously applied to said outer cap forcing said lugs to be engaged by said inclined walls of said recesses.

15. (Three times amended) A safety closure comprising:

an outer cap, comprising a first top wall and a first cylindrical skirt depending from said first top wall, a plurality of lugs are radially disposed about said first top wall and formed at an intersection of said first top wall and said first cylindrical skirt; and

an inner cap being rotatably received by the outer cap, said inner cap comprising a second top wall and a second cylindrical skirt depending from said second top wall, a plurality of recesses are radially disposed about said second top wall and formed at an intersection of said second top wall and said second cylindrical skirt, each of said recesses comprise a vertical wall and an inclined wall, each inclined wall being inclined with respect to a horizontal wall of its respective recess,

said lugs and recesses are shaped such that said lugs are engaged by said vertical walls when said outer cap is turned in a closure application direction, said lugs slide up said inclined walls when said outer cap is turned in a closure opening direction and a force urging said outer cap towards said inner cap is not being applied to the outer cap, and said lugs are engaged by said inclined walls when said outer cap is turned in the closure opening direction while the force is being applied to said outer cap.

21. (Amended) The closure of claim 1, wherein said outer cap is free to move in a [both] vertical direction and a horizontal rotational direction[s] with respect to said inner cap.

22. (Amended) A safety closure comprising:

an outer cap, comprising a first top wall and a first cylindrical skirt depending from said first top wall, an inner surface of said first top wall having a plurality of lugs radially disposed thereon; and

an inner cap being rotatably received by the outer cap, said inner cap comprising a second top wall and a second cylindrical skirt depending from said second top wall, a plurality of recesses being radially disposed about said second top wall and formed at an intersection of said second top wall and said second cylindrical skirt,

said recesses and lugs being shaped such that said outer cap is free to move in a [both] vertical direction and a horizontal rotational direction[s] with respect to said inner cap and said lugs are not engaged by said recesses when said outer cap is turned in a closure opening direction unless a force urging said outer cap towards said inner cap is being simultaneously applied to said outer cap.